

REMARKS

Applicants have amended claim 44 and cancelled claims 45, 50 and 51. This amendment contains no new matter. Entry of this amendment is respectfully requested.

Objection to the Specification

Applicants would like to thank the Examiner for noticing that Applicants had not provided a brief description of Figure 16. With this amendment correction has been made.

Claim Rejections – 35 USC §102 - Claim 1

The Examiner has rejected claim 1 under 35 USC Section 102(b) as being anticipated by O'Malley (US Patent No. 2,191,804). Applicants respectfully disagree. Applicants believe that the Examiner has mischaracterized some of the elements in O'Malley in order to meet the limitations of the claims and as such the rejection is improper.

The Examiner describes O'Malley as having "a plurality of vertically-disposed studs (18) resting on said bottom plate...." The Examiner identifies the bottom plate of O'Malley as element (11). Applicants agree that element 11 is a bottom plate. However; the elements the Examiner characterizes as studs (18) are in fact the sides of the sections 13 or shear-resisting assemblies. More importantly, the stiles or studs (18) of O'Malley rest on and are connected to bottom rails or joists (19) of the sections 13 or shear-resisting assemblies not the bottom plate. In claim 1 of the present invention, sub-section b, the limitation reads "vertically-disposed studs resting on and connected to said bottom plate". This is not the case in O'Malley.

Further, the Examiner describes O'Malley as having "a top plate (14) resting on said vertically-disposed studs." As above the Examiner mischaracterizes the relationship of parts in O'Malley. The top plate 14 of O'Malley rests on and is connected to top rails or joists (19) of the sections 13 or shear-resisting assemblies. In claim 1, sub-section c, the limitation reads: "a top plate resting on and connected to said vertically disposed studs." This is not the case in O'Malley.

Finally, the Examiner describes O'Malley as having a shear-resisting assembly that "rests directly on the underlying structural component (11)." Again, the Examiner mischaracterizes the relationship of the parts in O'Malley. As the Examiner stated earlier in the rejection based on O'Malley, the underlying structural component is not element (11) it is element (12). In O'Malley the sections 13 rest on the sill or bottom plate (11) and are not connected to the foundation wall or

underlying structural component 12. The section 13 are connected to the sill or bottom plate (11) by means of lag screws 26 that are not shown entering the underlying structural component. In claim 1, sub-section 3 the limitations reads: "a shear-resisting assembly connected to said top plate and also connected to said underlying structural component..." This is not the case in O'Malley.

For the reasons stated above, Applicants believe the rejection based on O'Malley is improper and respectfully request that it be removed.

Claim Rejections – 35 USC §102(b) - Claim 44

The Examiner has rejected claim 44 under 35 U.S.C. §102(b) as being anticipated by Mueller (US Patent No. 5,706,626). Applicants have amended claim 44 to overcome the rejection by the Examiner.

Applicants have amended claim 44 by canceling claim 45 and incorporating the limitations of claim 45 into claim 44.

In the rejection of claim 45, the Examiner admits that the limitations of claim 45 are not explicitly defined in Mueller and as such the Examiner rejected claim 45 on the basis of 35 USC §103. As such Applicants believe by making this amendment Applicants have addressed any §102 concerns and will address the §103 concerns below.

In reviewing the rejection of claim 44, Applicants also note that the Examiner describes Mueller as having the "first and second chords rest directly on the underlying structure (sic) component..." Applicants respectfully disagree with the characterization of Mueller. The first and second chords of Mueller 102(a) and 102(b) rest on the brackets 130a and 130b.

Applicants respectfully request that the 35 U.S.C. §102(b) rejection of Mueller be removed.

Claim Rejections – 35 USC §103 – Claim 35

The Examiner has rejected claim 35 under 35 U.S.C. §103(a) as being obvious over O'Malley in view of Delight (U.S. Patent No. 4,321,776). Based on the arguments with respect to claim 1 above, Applicants believe the Examiner has not shown that all of the limitations of claim 1 are taught by O'Malley and as such the combination of O'Malley with Delight to reject claim 35 which depends from claim 1 is not proper.

Claim Rejections – 35 USC §103 – Claims 44 and 45

The Examiner has rejected claims 44 and 45 under 35 U.S.C. §103(a) as being obvious over O'Malley in view of Delight (U.S. Patent No. 4,321,776).

Applicants would like to note that by this paper they have amended claim 44 to incorporate all of the limitations of claim 45 into claim 44.

Independent claim 44 and independent claim 1 are very similar. Both claims specify that there are "a plurality of vertically-disposed studs resting on and connected to said bottom plate..." and that there is "a top plate resting on and connected to said vertically-disposed studs..." Applicants have already discussed the absence of these limitations in O'Malley with respect to claim 1 and incorporate those same arguments here with respect to claim 44. For the reasons stated above, Applicant believes the combination of O'Malley and Delight to teach claims 44 and 45 is improper.

Applicants also take issue with the Examiner's characterization of Delight. The Examiner states that "Delight further teaches holdowns each being connected to the studs/chords by fasteners (see Figs. 1 and 6) which is inserted only a suitable distance into the studs/chords without passing all the way through the studs/chord." Applicants would like to point out that no such fasteners are shown in Figure 6 and what are likely the fasteners in Figure 1 are only partially shown. Moreover, there is no label in Figure 1 to indicate that what may be fasteners are in fact fasteners. In order to make the supposition that what is shown in Figure 1 are fasteners attaching the holdown or metal bracket 13 to the outer stud one must read the specification of Delight. Reading the specification, one finds that the only fasteners described for attaching the metal brackets 13 to the studs are bolts. See Delight at column 2, line 42. Therefore, Applicants believe that the only teaching one can derive from Delight for fastening a holdown or metal bracket 13 to a stud is the use of bolts, and therefore Delight does not supply the teaching suggested by the Examiner.

Applicants also take issue with the Examiner's characterization of O'Malley on this issue. The Examiner states that "O'Malley teaches a fastener for mounting studs/chord is generally being a threaded fasteners having a threaded shank portion for more tightly mounting the studs/chords." O'Malley does teach the use of lag screws 26 for the securing the frame structure to the wall plate and sill...." O'Malley at Column 2, line 51. However, O'Malley goes on to say that "the side stiles 18 and their batten strips 20 are provided with aligned transverse openings 27 preferably located on each side of the insulation panel 22 for receiving bolts 28 for securing adjacent sections together in side by side relation." O'Malley at

Column 2, line 52. Apparently, for attaching a member to the side of a vertically extending member, O'Malley prefers bolts.

Applicants feel that neither O'Malley teaches a fastener that meets the limitations of amended claim 44 and therefore respectfully requests that the rejection be removed.

Claim Rejection – 35 USC §103 – Claim 45

The Examiner has also rejected claim 45 under 35 U.S.C. §103(a) as being obvious over Mueller. As noted above, Applicants have cancelled claim 45, and all of its limitations have been incorporated into claim 44 which the Examiner also rejected in light of Mueller under §102.

Applicants respectfully disagree with the Examiner's rejection of claim 45 in light of Mueller. The Examiner notes that Mueller teaches the use of threaded fasteners to connect the upper portion of the chords to the top struts of his shear-resisting assembly, and those fasteners do not pass all the way through the chords. Applicants do not disagree. However, the Examiner then goes on to say that it would be obvious to one of ordinary skill in the art to use similar fasteners to connect the brackets or holdowns of Mueller to the chords. Applicants respectfully disagree with this statement.

First, Mueller's connection between the top of the chords and the top strut is very different from the connection of the bottom of the chords to the brackets 130a and b. Figures 3a and 3b compare the two connections. As can be seen by the number of members and the thickness of the members shown in Figure 3b which depicts the connection at the base of the chords that connection is designed to carry much higher loads.

To derive this teaching from Mueller one of ordinary skill in the art would have to disregard Mueller's teaching to use bolts for this connection at the base of the chords. Applicants' respectfully disagree with the Examiner's statement that Mueller would supply the necessary teaching to one of ordinary skill in the art to practice Applicants' invention.

Claim Rejections – 35 USC §103 – Claims 40 and 42

The Examiner has rejected claims 40 and 42 under 35 U.S.C. §103(a) as being obvious over Mueller in view of Hagedorn (U.S. Patent No. 2,666,238).

The Examiner states that it would be obvious to combine the standoff-plate of Hagedorn with the chords of Mueller, and otherwise all of the limitations of claims 40 and 42 are met. Applicants respectfully disagree.

Claim 40 specifically describes the shear-resisting assembly as resting "directly on said underlying structural component and said first and second chords of said shear-resisting assembly rest on standoff plates resting directly on said underlying structural component." While Applicants agree that Mueller teaches that the shear-resisting assembly rest directly on the underlying structural component. Applicants consider the brackets 130 to be part of the shear-resisting assembly. Applicants do not agree that it would be a simple matter to add stand-off plates under the chords of Mueller and have the chords of Mueller rest on stand-off plates resting directly on the underlying structural component. In Mueller, brackets 130 are disposed between the bottom of the chords and the underlying structural component.

Applicants do not believe the Examiner has adequately shown how the limitations of the claim would be met.

Allowable Subject Matter

Applicants would like to thank the Examiner for indicating that claims 36 – 39 and 46 – 49 are allowed.

Applicants would also like to thank the Examiner for indicating that claims 41 and 43 would be allowable if amended to incorporate all of the limitations of the claims from which they depend. Applicants have not made such amendments at this time.

Conclusion

In view of the above, Applicants submit that the claims remaining in the application are in condition for allowance and allowance of the claims at an early date is solicited.

Please direct any calls in connection with this application to the undersigned at (510) 832-4111.

Date: June 8, 2010

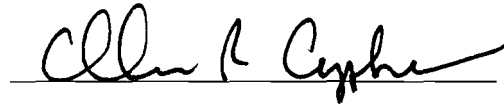
Reg. No.: 41,694

Tel. No.: 510-832-4111

Fax No.: 510-832-4115

Customer No.: 498

Respectfully submitted,



Charles R. Cypher
Law Offices of James R. Cypher
405 14th Street
Suite 1607
Oakland, CA 94612